

COMMUNITY IDENTIFICATION SIGN PERMIT
(Public Right-of-Way)

FILE NO. CIS19-001

LOCATIONS OF SIGNS Southeast corner of Williams Road and Phelps Avenue & southwest corner of Williams Road and Eden Avenue (Public Right-of-Way)

ZONING DISTRICT Public Right-of Way

GENERAL PLAN DESIGNATION Residential Neighborhood

PROPOSED SIGNAGE Allow two neighborhood entry markers along Williams Road within the public right-of-way at the following intersections: Williams Road and Phelps Avenue & Williams Road and Eden Ave.

ENVIRONMENTAL STATUS Exempt per CEQA Guidelines Section 15303 for New Construction or Conversion of Small Structures

APPLICANT Betty Kabanek
3264 Amherst Lane
San Jose, CA 95117

FACTS AND FINDINGS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts and findings regarding this proposed project:

1. The project proposes two 30-inch tall community identification signs on the public right-of-way sidewalk, located at the southeast corner of Williams Road and Phelps Avenue and at the southwest corner of Williams Road and Eden Avenue.
2. City Council Policy 9-3: Community Identification Signs authorizes the placement, construction, maintenance and removal as necessary of community identification signs in City public right-of-way at the sole expense of the Permittee subject to specified conditions, including the requirement of discretionary approval of this community identification sign permit and a sign permit pursuant to Section 23.02.1300.C of the San Jose Municipal Code.
3. Title 23 (Sign Ordinance) provides an opportunity for Public Benefit Gateway Signs per section 23.04.1000 of the San Jose Municipal Code. The surrounding uses are residential to all sides of the two sign locations.
4. Notice of a community meeting to solicit comments on the community sign permit application were mailed to residents, businesses and property owners within a 2,000-foot radius of the proposed sign location.

5. On September 26, 2019, the duly noticed community meeting regarding the permit application was held at 3500 Amber Drive at 7:00 p.m. Thirty-two community members attended the meeting, including members of the public for both in support and against the proposal.
6. Pursuant to the requirements for a Community Identification Sign, the applicant provided the required description of location, a scaled drawing of the proposal in plan and elevation, project budget, identification of funds available to complete the review and processing of the proposal, as well as funds to complete the fabrication/construction and installation of the signs, undergone comprehensive review by the City's Departments of Planning, Building and Code Enforcement.
 - a. The sign would need to be well maintained in that the Permittee shall enter into a maintenance agreement with the City to maintain the sign at its own costs. Further, the Permittee shall provide monies securing the estimated costs of demolition of the signs when necessary.

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis, the project following is an analysis of the conforms with the City Council Policy 9-3: Community Identification Signs and Wayfinding:

1. The proposal for two signs spanning the public right of way will not create visual clutter.
Analysis: The design of the sign is compatible with the surrounding area, as the sign utilizes earth-tone colors and stucco similar to the surrounding homes.
2. The proposal will not create traffic, pedestrian or other safety hazards, and will comply with State traffic guidelines.
Analysis: The Public Works Director has required the project to obtain a maintenance agreement and a construction agreement for the signs. The State traffic guidelines would be reviewed in the submittal of an improvement plan.
3. The proposed community identification signage will not detract from a citywide sense of unity, but will build on community identity and image.
Analysis: The signs would be located within the Eden Neighborhood and would emphasize the existing community identification.

Public Benefit Gateway Signs

Furthermore, the Director of Planning concludes and finds, based on the analysis of the above facts with respect to the findings of Section 23.04.1020 of the Municipal Code, for Public Benefit Gateway Signs in that:

1. The sign identifies the entry into an established business area; and
2. The size, type and location of the sign will be compatible with the neighborhood or area in which the sign will be located; and
3. The sign serves to enhance the identification of the business area; and
4. The proposed gateway name is established, traditional name of the business area; and
5. The sign will enhance the identification of the business area; and
6. The sign will benefit all businesses within the business area.

7. Under the provisions of Section 15303, of the State Guidelines for Implementation of the California Environmental Quality Act, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended, in that the project is for small structure, a monument sign in the public right-of-way.

CONDITIONS OF APPROVAL:

Permittee shall comply with all of the following conditions of approval of this Permit:

1. **Acceptance of Permit.** Per San José Municipal Code Section 20.100.290(B), should Permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
 - a. Acceptance of the Permit by the Permittee; and
 - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Conformance with Plans.** The development of the site and all associated development and improvements shall conform to the approved (Name Type of Permit Here) plans entitled, “ENA” date stamped received on November 4, 2019 on file with the Department of Planning, Building and Code Enforcement (“Approved Plans”), and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
3. **Permit Expiration.** This Permit shall automatically expire two (2) years from and after the date of issuance hereof by the Director of Planning, if within such time period, a Building Permit (for foundation or vertical construction) has not been obtained or, if no Building Permit is required, the use has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
4. **Revocation and Removal.** The Permit does not constitute a grant of any interest, whether in fee, easement, license or otherwise, in real property by the City and is revocable at any time at the will of the City. Upon notice of revocation by the City, Permittee shall remove the sign including any supporting structures identified for removal in the Notice of Revocation. Permittee acknowledges and agrees that it shall be solely liable for any and all delay caused by Permittee to projects or works performed by the City or by those under contract with the City which require the removal or relocation of the sign.
5. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, and, state, and federal laws.
6. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code or of any other applicable law.

7. **Public Works Clearance for Sign Installation:** Prior to the issuance of Public Works Encroachment Permit for the installation of the proposed sign, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to consult with the Department of Public Works to fully understand the requirements listed below.
- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
 - b. **Council Policy 9-3:** The installation, permitting, and maintenance of the proposed sign shall conform to Council Policy 9-3.
 - c. **Maintenance Agreement:** Prior to approval to begin construction of the proposed sign, the applicant shall enter into a maintenance agreement with the City of San Jose. The maintenance agreement shall include, but not be limited to the following major items:
 - i. Standards by which private maintenance shall occur
 - ii. Security for potential long-term City maintenance or removal of the sign (if necessary)
 - iii. Insurance coverage for the life of the Maintenance Agreement
 - iv. Annual City inspection fees.
 - d. **Additional Improvements:** Any damage to City infrastructure during the construction and/or maintenance of the proposed sign shall be the responsibility of the project applicant.
8. **Nuisance.** As required by Title 20 of the San José Municipal Code, uses or structures on this site shall be conducted and maintained in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City and to the satisfaction of the City.

APPROVED and issued on this **26th day of February 2020.**

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

Deputy